

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION

MARK A. CANTU, §
§
Plaintiff, §
§
v. § Civil No 5:18-CV-161
§
GUERRA & MOORE, LTD., LLP, ET §
AL., §
§
Defendants. §

PETITIONER CANTU'S RESPONSE TO ADVISEMENT TO THE COURT

TO THE HONORABLE JUDGE RANDY CRANE:

Petitioner Mark A. Cantu, by and through undersigned counsel, submits this brief response to the “Advisement to the Court” filed by Defendants Guerra & Moore LTD, LLP, Carlos Guerra, and J. Michael Moore (Dkt. No. 88). In their Advisement, Defendants point the Court to a brief filed in an unrelated matter on or about May 14, 2020 as evidence of Mr. Cantu’s “acumen” and evidence that he is “quite capable, willing and competent to handle his own legal matters.” *Id.* Defendants contend, therefore, that this case should not be abated due to Cantu’s current medical condition, which has been documented to the Court. *Id.; see also* Dkt. Nos. 65, 77, 84, 86.

In short, Defendants’ supposition that Mr. Cantu penned the May 14, 2020 brief himself is incorrect. Attached hereto as Exhibit 1 is the affidavit of attorney Keith C. Livesay. Mr. Livesay, who is Board Certified in Civil Appellate Law by the Texas Board of Legal Specialization, explains that he wrote the brief without meaningful input from Mr. Cantu. The extent of Mr. Cantu’s involvement was in requesting that Mr. Livesay prepare a response; he did not explain to Mr. Livesay “what he wanted included in the brief or what issues should be addressed.” Mr.

Livesay made those determination in his professional judgment and even explained that he would not have expected Mr. Cantu to understand the legal concepts at issue in his current state. Given that the brief was drafted by a Board-Certified appellate attorney, it should be no surprise that Defendants here characterized the author as “quite capable, willing and competent.” Indeed, the author *is* quite capable, willing, and competent. That author, however, is not Mr. Cantu.

Defendants’ mistake, which is understandable given that Mr. Livesay does not appear on the pleadings, was in assuming that Mr. Cantu drafted the response. He did not. Going forward, the Court should base its decisions on *evidence*, not Defendants’ mistaken assumptions.

No Court action is warranted at this time. The Court has set a status conference for July 1, 2020, and Cantu remains committed to getting this matter tried quickly, so long as it can be tried safely and fairly for all involved. Cantu looks forward to addressing the Court on July 1.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2020, a correct and complete copy of the foregoing document was filed with the clerk of the court for the U.S. District Court, Southern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel of record via email, in compliance with the Federal Rules of Civil Procedure and Local Rule 5:

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